



National Organization for Women Michigan Conference

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Testimony of Renee E. Beeker
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MI NOW

Submitted to the Family and Child Services Committee
Hearing on House Bill 5698
March 15, 2006

My name is Renee Beeker. I am the Legislative Vice President for the Michigan Conference of the National Organization for Women. NOW is the oldest and largest feminist activist organization in the United States, advocating for women's equal rights, of which Michigan has more than 5000 members and supporters. I would like to thank the Committee and Representative Stahl for the opportunity to voice our concerns here today.

Michigan NOW is opposed to House Bill 5698 and House Bill 5701.

House Bill 5698 would require all couples, who have brought an action of divorce, to comply with certain conditions, such as filling out questionnaires and attending a "divorce effects" class, before a judgment of divorce can be entered.

House Bill 5701 requires couples together or separately to file a "corporative" parenting plan that must be approved by the court. There are other various requirements regarding the plan, enforcement and modifications of the court approved parenting plan.

Despite the spousal conflicts leading to divorce, almost ninety percent of divorcing parents are able to reach a mutual agreement regarding custody and visitation with little or no intervention from the court. Since the remaining approximate 10 percent of divorcing parents cannot agree on custody and visitation issues initially, they are likely not to be able to agree on parenting issues in the future. In these **contested** cases, studies show that approximately 75 percent involve a history of violence.¹

House Bill 5698 has a provision that requires a victim of abuse to sign a sworn statement that they are a victim, and that the statement would be safe from the Freedom of Information Act (FOIA) release. This statement allows said individual to opt out of the "divorce effects class" as a domestic violence victim. Our concern is for the victims who are afraid. We fear this will keep victims from coming forward, potentially placing women and their children at risk for more harm by adding another process to go through when attempting to leave a dangerous relationship.

With respect to 5701, in a study in Washington State, where parents are required to produce a parenting plan before they are divorced, a reduction in the reporting of intimate partner violence

NOW's purpose is to take action to bring women into full partnership in the mainstream of American society NOW, exercising all privileges and responsibilities thereof in truly equal partnership with men.

was documented, even when there was a substantial documented history, the violence was not the divorce files.² Additionally, in HB 5698 section (c) states, "The wife is pregnant and, after the child is born, the husband would be the child's presumed father. If the pregnancy is discovered after the complaint is filed, but before entry of the judgment of divorce, the court shall not enter the judgment until the parties comply with this section".

This bill presents another possible risk for women, in that there is a potential to encourage and reward marital rape. Additionally, this discriminates uniquely against women, since men are incapable of becoming pregnant. Could a women's rights be violated due to pregnancy with legislative laws that force her to wait until delivery before granting a divorce?

House Bill 5701's requirement for contested divorce litigants to, which research studies noted above, show a high rate of domestic violence involved¹, produce a "cooperative" parenting plan, presents a very real danger for the victims and the children. This process provides even more opportunities for the abusive spouse to escalate power and control issues. This, added to the increased exposure time required, can fuel friction between the couple as well as added costs to already costly litigation.

The safe guards for victims incorporated into these bill, while well intentioned, fall short. More effort is required to make sure that the burden of abuse is not placed on the victims. It is imperative that those who would be working with this high conflict segment, such as Friends of the Court and referees, are well trained in the dynamics of domestic violence. There is an acknowledged lack of expertise regarding this issue of abuse. In these contested cases, protective parents are seen as the "NOT so friendly parent," when they bring information forward regarding abuse of themselves or their children. There are many studies which show that quite often sole or joint custody has been awarded to identified abusers.³

Again, the majority of divorcing couples are already solving custody issues without court intervention. The remaining segment of contested cases must be seen as red flag cases that could have abuse issues involved. These cases require our attention and assistance from those who are well trained to understand the dynamics of domestic, family, and interpersonal violence, and to most importantly, protect the rights and safety of the women and children involved in these cases.

Courts should strive to help these families by creating safe, flexible and child friendly arrangements that will hopefully work as families grow and change.

Thank you.

Reference Notes
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1. A summary of these studies is contained in Jaffe et al, "Access Denied: The Barriers of Violence and Poverty for Abused Women and their Children after Separation" Available through the Centre for Children and Families in the Justice System. Summary or Full version of their study can be obtained by contacting the Centre at 519-679-7250.

The American Psychological Association's Presidential Task Force on Violence in the Family Report states that Men who abuse their partners contest custody at least twice as often as non-abusing fathers. They are even more likely to dispute custody if there are sons. The report is available from the APA and this reference is at page 40.

2. "Children in the Crossfire: Child Custody Determinations Among Couples with a History of intimate Partner Violence" Mary A. Kernic, Daphne J. Monary-Ernsdorff, Jennifer K Koespell, and Victora Lo. Hold pages 991-102 Journal Violence Against Women August 2005 Sage. Call 800-818-SAGE.

3. Massachusetts Supreme Judicial Court's Gender Bias Task Force found that more then 70% of fathers received sole or joint custody regardless of whether there was history of abuse.

A. Wellesley Battered Mothers' Testimony Project found that 21 out of 39 cases resulted in custody to the fathers all of whom had abused the children and the mothers. Report is available from the Wellesley Centers for Women.

B. Jay Silverman "Child Custody Determinations in Custody Cases involving Intimate Partner Violence: A Human Rights Analysis" June 2004, Vol. 94, no.6, American Journal of Public Health, p, 953.

C. The Violence Against Women Special Journal Issue on Child Custody and Domestic Violence. Reporting the findings of four studies involving nine states. The research validate courts fail to protect women and children when abuse is factor in custody or visitation issues. Available through Sage call 800-818-SAGE or fax 805-499-0871.

D. Renee Beeker "The Illusion of Protection Uncovered: Review of the Special Journal Issue on Child Custody and Domestic Violence" Domestic Violence Report Vol. 11, No.3 ISSN 1086-1270 pages 35, 36, 44.